

§ 44.6

the program, particularly as revealed in audits and other evaluations (e.g., inspections, program reviews); the extent to which the program is carried out through subrecipients; the extent to which the program contracts for goods or services; the level to which the program is already subject to program reviews or other forms of independent oversight; the adequacy of the controls for ensuring compliance; the expectation of adherence or lack of adherence to the applicable laws and regulations; and the potential impact of adverse findings.

(i) In making the test of transactions, the auditor shall determine whether the amounts reported as expenditures were for allowable services or benefits, and whether the records show that those who received services or benefits were eligible to receive them.

(ii) In addition to transaction testing, the auditor shall determine whether matching requirements, levels of effort and earmaking limitations were met; whether Federal financial reports and claims for advances and reimbursements contain information that is supported by the books and records from which the basic financial statements have been prepared; and whether amounts claimed or used for matching were determined in accordance with OMB Circular A-87, "Cost principles for State and local governments," and Attachment F of OMB Circular A-102.

(iii) The principal compliance requirements of the largest Federal aid programs may be ascertained by referring to the *Compliance Supplement for Single Audits of State and Local Governments*, issued by OMB and available from the Government Printing Office. For those programs not covered in the Compliance Supplement, the auditor may ascertain compliance requirements by researching the statutes, regulations, and agreements governing individual programs.

(3) Transactions related to other Federal assistance programs that are selected in connection with examinations of financial statements and evaluations of internal controls shall be tested for compliance with Federal laws and reg-

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ulations that apply to such transactions.

(Approved by the Office of Management and Budget under control number 2535-0094)

§ 44.6 Subrecipients.

State and local governments that receive Federal financial assistance and provide \$25,000 or more of it in a fiscal year to a subrecipient shall:

(a) Determine whether State or local subrecipients have met the audit requirements of this part and whether subrecipients covered by OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Institutions," have met those requirements, as set forth in 24 CFR part 45.

(b) Determine whether the subrecipient spent Federal assistance funds provided in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subrecipient made in accordance with this part, Circular A-133 (as set forth in 24 CFR part 45), or through other means (e.g., program reviews) if the subrecipient has not yet had such an audit;

(c) Ensure that appropriate corrective action is taken within six months after receipt of the audit report in instances of noncompliance with Federal laws and regulations;

(d) Consider whether subrecipient audits necessitate adjustment of the recipient's own records; and

(e) Require each subrecipient to permit independent auditors to have access to the records and financial statements as necessary to comply with this part.

[51 FR 39086, Sept. 27, 1986 (interim rule) and 51 FR 30480, Aug. 27, 1986 (final rule), as amended at 57 FR 33254, July 27, 1992]

§ 44.7 Relationship to other audit requirements.

(a) The Single Audit Act provides that an audit made in accordance with OMB Circular A-128 shall be in lieu of any financial or financial compliance audit required under individual Federal assistance programs. To the extent that a single audit provides HUD with information and assurances the Department needs to carry out its overall

program responsibilities, such information shall be used. However, any additional audits that are necessary to carry out responsibilities under Federal law and regulation shall be planned and carried out in such a manner as to avoid duplication.

(b) HUD audit requirements in this part do not limit the authority of the Department to conduct or contract for audits and evaluations of Federal financial assistance programs, nor do these audit requirements limit the authority of the HUD Inspector General or other Federal audit officials.

(c) HUD audit requirements in this part do not authorize any State or local government or subrecipient thereof to constrain HUD in any manner, from carrying out additional audits.

(d) If HUD conducts or contracts for audits in addition to the audits conducted by recipients under this part, the Department shall, consistent with other applicable laws and regulations, arrange for funding the cost of such additional audits.

§ 44.8 Cognizant agency responsibilities.

(a) The Single Audit Act provides for cognizant Federal agencies to oversee the implementation of this part. OMB will assign cognizant agencies for States and their subdivisions, and for larger local governments and their subdivisions. HUD may participate with an assigned cognizant agency, in order to fulfill the cognizant responsibilities. Smaller governments not assigned a cognizant agency will be under the general oversight of the Federal agency that provides them the most funds, whether directly or indirectly.

(b) If HUD is designated as a cognizant agency, it will:

(1) Ensure that audits are made and reports are received in a timely manner and in accordance with audit requirements of this part.

(2) Provide technical advice and liaison to State and local governments and independent auditors.

(3) Obtain or make quality control reviews of selected audits made by non-Federal audit organizations, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any reported illegal acts or irregularities. They should also inform State or local law enforcement and prosecuting authorities, if not advised by the recipient, of any violation of law within their jurisdiction.

(5) Advise the recipient of audits that have been found not to have met the requirements in this part. In such instances, the recipient will be expected to work with the auditor to take corrective action. If corrective action is not taken, HUD shall notify the recipient and Federal awarding agencies of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies for disciplinary action.

(6) Coordinate, to the extent practicable, audits made by or for Federal agencies that are in addition to the audits conducted under this part, so that the additional audits build upon such audits.

(7) Oversee the resolution of audit findings that affect the programs of more than one agency.

§ 44.9 Illegal acts or irregularities.

If the auditor becomes aware of illegal acts or other irregularities, prompt notice shall be given to recipient management officials above the level of involvement. The recipient, in turn, shall promptly notify the cognizant agency of the illegal acts or irregularities and of proposed and actual actions, if any. Illegal acts and irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriations of funds or other assets.

§ 44.10 Audit reports.

(a) Audit reports shall be prepared at the completion of the audit. The audit report shall state that the audit was made in accordance with the provisions of HUD requirements at 24 CFR part 44. The report shall be made up of at least: